

Honorable Thomas S. Zilly

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7 VENICE PI, LLC,

8 Plaintiff,

9 v.

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11 EDWARD JILES;  
12 MICHAEL SMITH;  
13 BILLY JOE GAMBILL;  
14 TSIMAFEI SHAPAVAL;  
15 FAIMAFILI MIKA;  
16 ROBERT BOVITZ; and  
17 JONATHAN GARCIA,

Defendants.

Civil Action No. 17-cv-1211TSZ

OBJECTION TO DEFENDANT SMITH'S  
SUBMISSION (DKT. 59)

18 Plaintiff objects to Defendant Smith's submission of a Response to Plaintiff's Reply to the  
19 motion to dismiss (Dkt. #59). Defendant filed a 30 page "response" more than a month after the  
20 reply. This submission contains new assertions not permitted by the Local Rules, and further  
21 advances arguments that could be construed as evidence that is outside the pleadings and not  
22 permitted in a motion to dismiss. The arguments are also lacking in foundation. Although the  
23 submission is not a surreply under LR 7(g) because it is not an objection or motion to strike content  
24 of the reply, it would not otherwise comply with LR 7(g), *inter alia* because this filing (a) was not  
25 preceded by the required notice of intent to file a surreply (LR 7(g)(1)), (b) is untimely as not filed  
26 within five days of Plaintiff's reply brief and not strictly limited to addressing a request to strike

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INIP-6-0098P21 OBJ

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1 and containing extraneous argument (LR 7(g)(2)), and (c) exceeds three pages. (LR 7(g)(3)).  
2 Plaintiff therefore objects and requests that it be stricken.

3 RESPECTFULLY SUBMITTED February 15, 2018.

4 s/ David A. Lowe, WSBA No. 24,453

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8 Attorneys for Plaintiff

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OBJECTION TO DEFENDANT SMITH'S  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served to all counsel or parties of record who are deemed to have consented to electronic service via the Court's CM/ECF system, and as follows via U.S. Mail:

Michael Smith  
521 S. Yantic Ave  
Bremerton, WA 98312

s/ David A. Lowe

OBJECTION TO DEFENDANT SMITH'S  
SUBMISSION (DKT. 59) - 3

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